

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

ALEJANDRO CABRERA	§	
v.	§	CIVIL ACTION NO. 6:12cv234
		(Crim. No. 6:09cr91-3)
DIRECTOR, TDCJ-CID	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Movant Alejandro Cabrera, proceeding *pro se*, filed this motion to vacate or correct his sentence under 28 U.S.C. §2255. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

A copy of a court order was sent to Cabrera in May of 2012 at his last known address, the Collin County Jail, but was returned with the notation that Cabrera was no longer in custody there. To date, Cabrera has not notified the Court of his current mailing address or present whereabouts. Accordingly, the Magistrate Judge issued a Report recommending that the motion to vacate be dismissed without prejudice for failure to prosecute. The Magistrate Judge also recommended that the Court provide a 60-day window, that should Cabrera notify the Court of his new address within 60 days of the date of entry of final judgment, the final judgment will be set aside and Cabrera allowed to continue with the case.

No objections have been received to this Report, and so the parties are barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal

conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 11) is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled motion to vacate or correct sentence be and hereby is DISMISSED without prejudice for failure to prosecute. Should Cabrera notify the Court of his new address within 60 days of the date of entry of final judgment, this judgment will be set aside and Cabrera will be allowed to continue with the case. Finally, it is

ORDERED that any and all other motions which may be pending in this civil action are hereby DENIED.

So ORDERED and SIGNED this 17th day of September, 2012.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**